

1
2
3 WRIGHT, FINLAY & ZAK, LLP
4 Dana Jonathon Nitz, Esq.
5 Nevada Bar No. 0050
6 Natalie C. Lehman, Esq.
7 Nevada Bar No. 12995
8 7785 W. Sahara Ave., Suite 200
9 Las Vegas, NV 89117
10 (702) 475-7964; Fax: (702) 946-1345
11 dnitz@wrightlegal.net
12 nlehman@wrightlegal.net

Attorneys for Defendants, Ocwen Loan Servicing; LLC, Mortgage Electronic Registration Systems, Inc., as Nominee for Lender Aegis Lending Corporation; and U.S. Bank, National Association, as Trustee for the registered holders of Aegis Asset Backed Securities Trust, Mortgage Pass-Through Certificates, Series 2005, erroneously named as U.S. Bank, National Association

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOHN D. REILLY, an individual; and
ANTONIA REILLY, an individual,

Plaintiffs,

vs.

OCWEN LOAN SERVICING, LLC, a foreign
Limited Liability Company; MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS,
INC., AS NOMINEE FOR LENDER AEGIS
LENDING CORPORATION; U.S. BANK
NATIONAL ASSOCIATION, a foreign lending
institution; and all persons unknown claiming
legal title or equitable right, title, estate, lien, or
interest in the property described in the
Complaint adverse to Plaintiffs' title, or any
cloud on Plaintiffs' title thereto; DOES 1-10,
and CORPORATIONS I-X, inclusive,

Defendants.

District Court Case No.: CV15-00430

PETITION FOR REMOVAL ACTION

TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants, Ocwen Loan Servicing, LLC (hereinafter, "Ocwen"); Mortgage Electronic Registration Systems, Inc., as Nominee for Lender Aegis Lending Corporation (hereinafter, "MERS"); and U.S. Bank, National Association, as Trustee for the registered holders of Aegis Asset Backed Securities Trust, Mortgage Pass-Through Certificates, Series 2005, erroneously named as U.S. Bank, National Association, (hereinafter, "U.S. Bank"), by and through their counsel of record, Dana Jonathon Nitz, Esq. and Natalie C. Lehman, Esq., of the law firm of Wright, Finlay & Zak, LLP, hereby remove this action to the United States District Court for the District of Nevada, and in support thereof, state as follows:

1. The above-entitled action was commenced on or about March 5, 2015, in the Second Judicial District Court for the State of Nevada in and for the County of Washoe ("State Court") under the designated Case Number CV15-00430 (the "State Court Action"). Plaintiff named Ocwen, MERS and U.S. Bank as defendants.

2. Plaintiff's Complaint in the State Court Action asserts claims for quiet title, declaratory relief and breach of agreement against Ocwen, MERS and U.S. Bank arising from the servicing of the Plaintiff's loan which is secured by a deed of trust on the real property located at 7389 Silver King Drive, Sparks, Nevada 89436, from November 2005 until the present.

3. Complete diversity exists as follows:

- a. Defendant, U.S. BANK is a national banking association chartered under the laws of the United States with its principal place of business in Ohio.
- b. Defendant, MERS is and was at the time of filing of the Action, a Delaware corporation. A "...corporation shall be deemed a citizen of any State by which it has been incorporated and of the State where it has its principal place of business." 28 U.S.C. § 1332(c)(1). MERS' principal place of business is, and was at the time of filing the Action, located within the State of Virginia. As a result, MERS is a citizen, for diversity

1 purposes, of the States of Delaware and Virginia.

2 c. Defendant OCWEN is a Delaware limited liability company with its
3 principal place of business in Florida. The citizenship of a limited liability
4 company is determined by the citizenship of each member of the
5 company. *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894,
6 899 (9th Cir. 2006) (“[A]n LLC is a citizen of every state of which its
7 owners/members are citizens.”). OCWEN is at the present time, and at the
8 time of commencement of the State Court Action, a wholly-owned
9 subsidiary of Ocwen Financial Corporation, and therefore takes the
10 citizenship of its only member, Ocwen Financial Corporation, which is
11 incorporated in Florida and has its principal place of business in Georgia.
12 Therefore, OCWEN is deemed a citizen of the States of Florida and
13 Georgia for the purposes of diversity citizenship jurisdiction

14 d. Plaintiffs JOHN D. REILLY and ANTONIA REILLY, allege to be the
15 owners of the property located at 7389 Silver King Drive, Sparks, Nevada
16 89436 (“Subject Property”).

17 e. DOES and fictitious CORPORATIONS are to be disregarded in the
18 court’s determination of diversity jurisdiction. *McCabe v. General Foods*
19 *Corporation*, 811 F.2D 1336, 1339 (9th Cir., 1987).

20 4. With respect to the amount in controversy requirement, the Complaint in the State
21 Court Action asserts claims for quiet title, declaratory relief and breach of agreement against
22 Ocwen, MERS and U.S. Bank arising from the servicing of the Plaintiff’s loan which is secured
23 by a deed of trust on the real property located at 7389 Silver King Drive, Sparks, Nevada 89436,
24 from November 2005 until the present, (the “Subject Property”). Upon information and belief
25 the Complaint seeks in excess of \$75,000.00, which is based on fact that the Washoe County
26 Assessor values the Subject Property at \$391,896.00 and the remaining unpaid principal balance
27 on the Reillys’ loan currently over \$300,000.00.

28 5. Defendant Ocwen was served with a copy of the Summons and Complaint on

1 March 12, 2015.

2 6. Defendant MERS was served with a copy of the Summons and Complaint on
3 March 26, 2015.

4 7. Defendant U.S. Bank was served with a copy of the Summons and Complaint on
5 April 1, 2015.

6 8. Venue is proper in the unofficial Northern Division of the District pursuant to 28
7 U.S.C. § 1441(a) because this District embraces the place where the state court action is pending.

8 9. Pursuant to 28 U.S.C. § 1446(a), Defendants have annexed all process, pleadings,
9 and Orders served and not served upon it, which are annexed hereto as Exhibit "1."

10 10. Pursuant to 28 U.S.C. § 1441(c), a true copy of the original Petition for Removal
11 has been filed concurrently with the Second Judicial District Court, Washoe County, Nevada
12 and, in accordance with 28 U.S.C. § 1446(d), served upon Plaintiffs in this case.

11. Defendants Ocwen, MERS and U.S. Bank reserve the right to supplement this Petition for Removal when additional information becomes available. Defendants Ocwen, MERS and U.S. Bank, further reserve all rights including, but not limited to, defenses and objections as to venue, personal jurisdiction, and service. The filing of this Petition for Removal is subject to and without waiver of any such defense or objection.

DATED this 13th day of April, 2015.

WRIGHT, FINLAY & ZAK, LLP



Dana Jonathon Nitz, Esq.

Nevada Bar No. 0050

Natalie C. Lehman, Esq.

Nevada Bar No. 12995

7785 W. Sahara Ave., Suite 200

Las Vegas, NV, 89117

(702) 475-7964; Fax: (702) 946-1345

nlehman@wrightlegal.net

Attorneys for Defendants, Ocwen Loan Servicing; LLC, Mortgage Electronic Registration Systems, Inc., as Nominee for Lender Aegis Lending Corporation; and U.S. Bank, National Association, as Trustee for the registered holders of Aegis Asset Backed Securities Trust, Mortgage Pass-Through Certificates, Series 2005

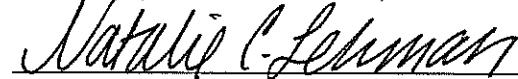
AFFIRMATION

Pursuant to N.R.S. 239B.030

The undersigned does hereby affirm that the preceding **PETITION FOR REMOVAL** does not contain the social security number of any person.

DATED this 13th day of April, 2015.

WRIGHT, FINLAY & ZAK, LLP



Natalie C. Lehman, Esq.

Nevada Bar No. 12995

7785 W. Sahara Ave., Suite 200

Las Vegas, NV, 89117

Attorneys for Defendants, Ocwen Loan Servicing; LLC, Mortgage Electronic Registration Systems, Inc., as Nominee for Lender Aegis Lending Corporation; and U.S. Bank, National Association, as Trustee for the registered holders of Aegis Asset Backed Securities Trust, Mortgage Pass-Through Certificates, Series 2005, erroneously named as U.S. Bank, National Association

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an employee of WRIGHT, FINLAY & ZAK, LLP; that service of the foregoing **PETITION FOR REMOVAL** was made on the 3 day of April 2015, by depositing a true copy of same in the United States Mail, at Las Vegas, Nevada, addressed as follows:

KREITLEIN LAW GROUP, LTD.

Philip L Kreitlein, Esq.

470 E. Plumb Lane, Suite 310

Reno, NV 89502

Attorney for Plaintiff, John D. Reilly

And Antonia Reilly



An Employee of WRIGHT, FINLAY & ZAK, LLP